

Library Laws Of Utah (Utah Code) - 2007

Effective July 1, 2007

Utah State Library

A Division of the Department of Community & Culture

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http://library.utah.gov/librarian_resources/laws/index.htm

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(State Library)

9-7-101. Definitions.

As used in this chapter:

- (1) "Division" means the State Library Division.
- (2) "Library board" means the library board of directors appointed locally as authorized by Section **9-7-402** or **9-7-502** and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which it is known locally.
- (3) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.
- (4) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section **9-7-215**.
- (5) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.
- (6) "State agency" means the state, an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.
- (7) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.
(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.
Amended by Chapter 81, 2006 General Session

9-7-201. State Library Division -- Creation -- Purpose.

- (1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.
- (2) The division shall be under the policy direction of the board.
- (3) The division shall function as the library authority for the state and is responsible for general library services, extension services, the preservation, distribution and exchange of state publications, legislative reference, and other services considered proper for a state library.
Renumbered and Amended by Chapter 241, 1992 General Session

9-7-202. Appointment of director.

- (1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.
- (2) The director shall have a degree from an institution approved by the American Library Association in library science and shall have demonstrated administrative ability.
Enacted by Chapter 241, 1992 General Session

9-7-203. Division duties.

The division shall:

- (1) establish, operate, and maintain a state publications collection, a digital library of state publications, a bibliographic control system, and depositories as provided in this part;
- (2) cooperate with:
 - (a) other agencies to facilitate public access to government information through electronic networks or other means;
 - (b) other state or national libraries or library agencies; and
 - (c) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;
- (3) receive bequests, gifts, and endowments of money and deposit the funds with the state

treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

(4) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor, with the approval of the Division of Finance.

Amended by Chapter 81, 2006 General Session

9-7-204. State Library Board -- Members -- Meetings -- Expenses.

(1) There is created within the department the State Library Board.

(2) (a) The board shall consist of nine members appointed by the governor.

(b) One member shall be appointed on recommendation from each of the following agencies:

(i) the State Office of Education;

(ii) the Board of Control of the State Law Library;

(iii) the Office of Legislative Research and General Counsel; and

(iv) the Utah System of Higher Education.

(c) Of the five remaining members at least two shall be appointed from rural areas.

(3) (a) Except as required by Subsection (b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The members may not serve more than two full consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as originally appointed.

(6) Five members of the board constitute a quorum for conducting board business.

(7) The governor shall select one of the board members as chair who shall serve for a period of two years.

(8) The director of the State Library Division shall be executive officer of the board.

(9) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections

63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107.**

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Higher education members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections **63A-3-106** and **63A-3-107.**

(ii) Higher education members may decline to receive per diem and expenses for their service.

Amended by Chapter 243, 1996 General Session

Amended by Chapter 194, 1996 General Session

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for its housing;

(b) promote and develop library services throughout the state in cooperation with any and all other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions

within particular areas of the state may require;

(d) supervise the books and materials of the state library and require careful and complete records of the condition and affairs of the state library to be kept;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of any state or federal funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries of any type within the state and to all communities or persons proposing to establish them and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a depository library program by collecting state publications, and providing a bibliographic information system;

(l) require that information and statistics necessary to the work of the state library be collected, and that findings and reports be published;

(m) make any report concerning the activities of the state library to the governor as he may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Amended by Chapter 73, 2001 General Session

9-7-206. State Library Donation Fund -- Deposits and fees.

(1) There is created a restricted special revenue fund entitled the "State Library Donation Fund" to receive bequests, gifts, and endowments of money.

(2) Any interest or proceeds realized from the use or disposition of property received by the division or interest on the fund itself shall be deposited in the State Library Donation Fund and used by the State Library Division for the purposes specified by the donor.

(3) All fees paid to the library and collections made due to damaged books or through sale or exchange of books and other materials shall be deposited in the General Fund as dedicated credits for use by the State Library Division.

Amended by Chapter 256, 2002 General Session

9-7-207. Deposit of state publications.

(1) (a) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.

(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.

(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.

(2) Each state agency or political subdivision shall deposit with the division a digital copy of

each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.

(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.

(4) (a) The division shall publish or make available to the public through electronic networks a list of state agency publications.

(b) The list shall be published periodically and distributed to depository libraries and the state archivist.

(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.

Amended by Chapter 81, 2006 General Session

9-7-208. Digital library for permanent public access.

(1) The division shall manage and maintain an online, web-accessible digital library for state publications.

(2) The division shall provide for permanent public access to the publications in the digital library.

(3) The library shall be accessible by agency, author, title, subject, keyword, and such other means as provided by the division.

(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.

(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.

Repealed and Re-enacted by Chapter 81, 2006 General Session

9-7-209. Depository libraries.

(1) Upon application, a library in this state may be designated as a depository library by the division.

(2) To be designated as a depository library, a library shall contract with the division to:

(a) provide adequate facilities for the storage and use of state publications;

(b) render reasonable service without charge to patrons; and

(c) provide reasonable access to state publications.

(3) A depository library shall receive at least one copy of all state publications issued by state agencies in a physical format.

(4) Each depository library shall have electronic network access to the bibliographic records and the state publications deposited with the division for the purposes of local preservation and providing local access.

Amended by Chapter 81, 2006 General Session

9-7-210. Micrographics and other copying and transmission techniques.

The division may use micrographics, computer files, electronic networks, or other copying or transmission techniques to meet the needs of the depository system.

Amended by Chapter 32, 1995 General Session

9-7-211. Local libraries -- Annual reports.

All municipal, city, county, and public school libraries shall submit an annual report to the director of the division on the condition and affairs of each library as required by the State Library Board.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-212. Contracts with nonpublic libraries.

The director of the division, subject to the direction and approval of the State Library Board,

may contract with nonpublic libraries to receive their library services and to otherwise coordinate the state library program with those libraries.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-213. Rulemaking.

The division may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this chapter including:

- (1) standards which must be met by libraries to obtain and retain a designation as a depository library;
- (2) the method by which grants are made to individual libraries, but not including appropriations made directly to any other agency or institution;
- (3) standards for the certification of public librarians; and
- (4) standards for the public library online access policy required in Section **9-7-215**.

Amended by Chapter 136, 2000 General Session

**9-7-214. Intentionally defacing, injuring, destroying, or refusing to return property -
- Misdemeanor.**

Whoever intentionally defaces, injures, or refuses to return on demand, or destroys any property belonging to the state library or loaned through its coordinating agencies or facilities, shall be guilty of a misdemeanor.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-215. Internet and online access policy required.

- (1) As used in this section:
 - (a) "Child pornography" is as defined in Section **76-5a-2**.
 - (b) "Harmful to minors" is as defined in Section **76-10-1201**.
 - (c) "Obscene" is as defined in 20 U.S.C. Sec. 9101.
 - (d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.
- (2) State funds may not be provided to any public library that offers use of the Internet or an online service to the public unless the library:
 - (a) (i) has in place a policy of Internet safety for minors including the operation of a technology protection measure:
 - (A) with respect to any publically accessible computer with Internet access; and
 - (B) that protects against access to visual depictions that are:
 - (I) child pornography;
 - (II) harmful to minors; or
 - (III) obscene; and
 - (ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use of a computer by a minor; and
 - (b) (i) has in place a policy of Internet safety including the operation of a technology protection measure:
 - (A) with respect to any publically accessible computer with Internet access; and
 - (B) that protects against access to visual depictions that are:
 - (I) child pornography; or
 - (II) obscene; and
 - (ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer.
 - (3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.
 - (4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

- (a) at the request of a library patron who is not a minor; and
 - (b) to enable access for research or other lawful purposes.
- Amended by Chapter 193, 2004 General Session

9-7-216. Process and content standards for policy.

(1) (a) Each library's policy shall be developed under the direction of the library board, adopted in an open meeting, and have an effective date. The library board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.

(b) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all patrons to observe. The library board may issue any other public notice it considers appropriate to inform the community about the policy.

(2) The policy shall:

(a) state:

(i) that it restricts access to Internet or online sites that contain material described in Section

9-7-215; and

(ii) how the library board intends to meet the requirements of Section **9-7-215**;

(b) inform patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the library; and

(c) inform patrons that procedures for use by patrons and staff to handle complaints about the policy, its enforcement, or about observed patron behavior have been adopted and are available for review at the library.

Amended by Chapter 193, 2004 General Session

9-7-217. Reporting.

The division shall make a report to the Workforce Services and Community and Economic Development Interim Committee at least once every three years regarding the compliance of library boards with Section **9-7-215**.

Amended by Chapter 65, 2002 General Session

(State Law Library)

9-7-301. Board of control.

(1) There is created the board of control of the State Law Library consisting of the attorney general, legislative general counsel, and the chief justice of the Supreme Court.

(2) The members of the board may not receive salary, per diem, or expenses for their service.

Amended by Chapter 10, 1997 General Session

9-7-302. Public access -- Rules.

(1) The public shall have access to the State Law Library.

(2) The board of control may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and not inconsistent with the provisions of this part.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-303. Withdrawing books.

(1) Books may be taken from the State Law Library by:

(a) the members, officers, and staff of the Legislature;

(b) the officers and staff of the executive departments and of the several boards and commissions of the state government; and

- (c) the justices of the Supreme Court, the judges of other state courts, and their staffs.
 - (2) No other person may withdraw any book from the State Law Library.
- Renumbered and Amended by Chapter 241, 1992 General Session

9-7-304. Book register -- Time limit.

- (1) The state law librarian shall keep a register of all books issued and returned, showing to whom issued, by whom returned, and the time issued and returned.
 - (2) No book taken from the law library may be detained more than ten days, except by permission of the state law librarian.
- Amended by Chapter 176, 1998 General Session

9-7-305. Injury to and failure to return books -- Action.

- (1) If any person injures any book owned by the state law library or fails to return any book taken from the State Law Library, that person shall pay the state law librarian all loss or damage sustained because of the injury or failure to return, including costs and reasonable attorneys' fees.
 - (2) The state law librarian, in behalf of the state, shall bring action in the name of the state for the collection of all damages sustained and all losses and penalties imposed under this section.
- Amended by Chapter 176, 1998 General Session

9-7-307. Catalogue -- Rules.

The state law librarian shall catalogue all books, pamphlets, maps, charts, globes, papers, apparatus, and valuable specimens in the State Law Library and shall post in some conspicuous place a copy of the rules of the State Law Library. The catalogue shall be made available, whether electronically or in writing, to the persons entitled to withdraw books from the State Law Library under Section **9-7-303**.

Amended by Chapter 176, 1998 General Session

9-7-308. Books to be stamped and labeled.

The state law librarian shall cause every book in the State Law Library to be labeled with a printed or stamped label containing the words "Utah State Law Library," and shall cause the same words to be written or stamped on one or more pages of each volume.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-309. Sale and exchange of books.

The state law librarian may sell or exchange any surplus or duplicate sets of books in the State Law Library and use the proceeds from the sale to purchase other books for the State Law Library.

Amended by Chapter 176, 1998 General Session

9-7-311. Wrongful withdrawal of books -- Penalty.

If any person not authorized by Section **9-7-303** takes a book from the State Law Library, either with or without the consent of the state law librarian, or violates any of the provisions of this part, that person shall be fined the full cost of replacing the book, plus \$50 for each book so taken.

Amended by Chapter 176, 1998 General Session

9-7-312. Disposition of fines and penalties.

All fines and penalties collected pursuant to the provisions of this part shall be paid into the state treasury for the benefit of the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

(City Libraries)

9-7-401. Tax for establishment and maintenance of public library -- City library fund.

- (1) A city governing body may establish and maintain a public library.
- (2) For this purpose, cities may levy annually a tax not to exceed .001 of taxable value of taxable property in the city. The tax is in addition to all taxes levied by cities and is not limited by the levy limitation imposed on cities by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.
- (3) The taxes described in Subsection (2) shall:
 - (a) be levied and collected in the same manner as other general taxes of the city; and
 - (b) constitute a fund to be known as the city library fund.
- (4) The city library fund shall receive a portion of:
 - (a) the uniform fee imposed by Section **59-2-404** in accordance with the procedures established in Section **59-2-404**;
 - (b) the statewide uniform fee imposed by Section **59-2-405** in accordance with the procedures established in Section **59-2-405**;
 - (c) the statewide uniform fee imposed by Section **59-2-405.1** in accordance with the procedures established in Section **59-2-405.1**;
 - (d) the uniform statewide fee imposed by Section **59-2-405.2** in accordance with the procedures established in Section **59-2-405.2**; and
 - (e) the uniform statewide fee imposed by Section **59-2-405.3** in accordance with the procedures established in Section **59-2-405.3**.

Amended by Chapter 244, 2005 General Session

Amended by Chapter 217, 2005 General Session

9-7-402. Library board of directors -- Expenses.

- (1) When the city governing body decides to establish and maintain a city public library under the provisions of this part, it shall appoint a library board of directors of not less than five members and not more than nine members, chosen from the citizens of the city and based upon their fitness for the office.
- (2) Only one member of the city governing body may be, at any one time, a member of the board.
- (3) Each director shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-403. Library board terms -- Officers -- Removal -- Vacancies.

- (1) Each director shall be appointed for a three-year term, or until the successor to that director is appointed. Initially, appointments shall be made for one-, two-, and three-year terms. Annually thereafter, the city governing body shall, before the first day of July of each year, appoint for a three-year term directors to take the place of the retiring directors.
- (2) Directors shall serve not more than two consecutive full terms.
- (3) The directors shall annually select a chairman and other officers.
- (4) The city governing body may remove any director for misconduct or neglect of duty.
- (5) Vacancies in the board of directors shall be filled for the unexpired term in the same manner as original appointments.

Amended by Chapter 10, 1997 General Session

9-7-404. Board powers and duties -- Library fund deposits and disbursements.

- (1) The library board of directors may, with the approval of the city governing body:
- (a) have control of the expenditure of the library fund, of construction, lease, or sale of library buildings and land, and of the operation and care of the library; and
 - (b) purchase, lease, or sell land, and purchase, lease, erect, or sell buildings for the benefit of the library.
- (2) The board shall:
- (a) maintain and care for the library;
 - (b) establish policies for its operation; and
 - (c) in general, carry out the spirit and intent of the provisions of this part.
- (3) All tax moneys received for the library shall be deposited in the city treasury to the credit of the library fund, and may not be used for any purpose except that of the city library. These funds shall be drawn upon by the authorized officers of the city upon presentation of the properly authenticated vouchers of the library board. All moneys collected by the library shall be deposited to the credit of the library fund.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-405. Rules -- Use of library.

- (1) The library board of directors shall make, amend, and repeal rules, not inconsistent with law, for the governing of the library.
- (2) Each library established under this part shall be free to the use of the inhabitants of the city where located, subject to the rules adopted by the board. The board may exclude from the use of the library any person who willfully violates these rules. The board may extend the privileges and use of the library to persons residing outside of the city upon terms and conditions it may prescribe by rule.

Amended by Chapter 48, 2005 General Session

9-7-406. Reports to governing body and State Library Board.

The library board of directors shall:

- (1) make an annual report to the city governing body on the condition and operation of the library, including a financial statement; and
- (2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.
- Renumbered and Amended by Chapter 241, 1992

9-7-407. Librarian and other personnel.

- (1) The library board of directors shall appoint a competent person as librarian to have immediate charge of the library with those duties and compensation for services that it determines. The librarian shall act as the executive officer for the library board.
- (2) The board shall appoint, upon the recommendation of the librarian, other personnel as needed.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-408. Donations of money or property.

Any person desiring to make donations of money, personal property, or real estate for the benefit of any library shall have the right to vest the title to the money, personal property, or real estate in the board of directors. The donation shall be held and controlled by the board, when accepted, according to the terms of the deed, gift, devise, or bequest of the property, and the board shall be held and considered to be trustees of the property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-409. Entities may cooperate, merge, or consolidate in providing library services.

Boards of directors of city libraries, boards of directors of county libraries, boards of

education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate, merge, or consolidate in providing library services.
Renumbered and Amended by Chapter 241, 1992 General Session

9-7-410. Consolidation with county library.

(1) If a city library consolidates with a county library, the city library board of directors shall convey all assets and, except as provided in Subsection (2), trust funds to the county library board of directors, and the city library shall cease operation.

(2) If a conveyance of trust funds under Subsection (1) would constitute a violation of the trust agreement governing the trust funds, conveyance of those funds is not required, and those funds may continue to be used in accordance with the trust agreement for any library facility specified in the trust agreement, even after the facility becomes a county library facility because of consolidation.

Amended by Chapter 46, 2005 General Session

(County Libraries)

9-7-501. Tax for establishment and maintenance of public library -- Library fund.

(1) A county legislative body may establish and maintain a public library.

(2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable value of taxable property in the county, outside of cities which maintain their own city libraries as authorized by Part 4. The tax is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes shall be levied and collected in the same manner as other general taxes of the county and shall constitute a fund to be known as the county library fund.

Amended by Chapter 227, 1993 General Session

9-7-502. Library board of directors -- Expenses.

(1) (a) When the county legislative body decides to establish and maintain a county public library under the provisions of this part, the county executive shall, with the advice and consent of the county legislative body, appoint a library board of not less than five and not more than nine directors chosen from the citizens of the county and based upon their fitness for the office.

(b) When increasing membership on an existing library board, the county legislative body:

(i) may not add more than two positions in any year; and

(ii) when adding members, shall ensure that the terms of library board members are staggered so that approximately 1/4 of the board is selected each year.

(2) Only one member of the county legislative body may be, at any one time, a member of the board.

(3) Each director shall serve without compensation, but the actual and necessary expenses incurred in the performance of the director's official duties may be paid from library funds.

Amended by Chapter 45, 1994 General Session

9-7-503. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director shall be appointed for a four-year term, or until the director's successor is appointed. Initially, appointments shall be made for one-, two-, three-, and four-year terms, and one member of the county legislative body for the term of his elected office. Annually thereafter, the county executive body shall, before the first day of July of each year, appoint, with the advice and consent of the county legislative body, for a four-year term, one director to take the place of the retiring director.

(2) Directors shall serve not more than two consecutive full terms.

- (3) The directors shall annually select a chairman and other officers.
- (4) The county executive body may remove any director for misconduct or neglect of duty.
- (5) Vacancies in the board of directors shall be filled for the unexpired terms in the same manner as original appointments.

Amended by Chapter 78, 1993 General Session

Amended by Chapter 227, 1993 General Session

Amended by Chapter 4, 1993 General Session

9-7-504. Library board duties -- Library fund deposits.

(1) The library board of directors shall, with the approval of the county executive and in accordance with county ordinances, policies, and procedures:

- (a) be responsible for:
 - (i) the expenditure of the library fund;
 - (ii) the construction, lease, or sale of library buildings and land; and
 - (iii) the operation and care of the library; and
- (b) purchase, lease, or sell land, and purchase, lease, construct, or sell buildings, for the benefit of the library.

(2) The board has those powers and duties as prescribed by county ordinance, including, but not limited to, establishing policies for collections and information resources that are consistent with state and federal law.

(3) (a) All tax moneys received for the library shall be deposited in the county treasury to the credit of the library fund, and may not be used for any purpose except that of the county library.

(b) All moneys collected by the library shall be deposited to the credit of the library fund.

Amended by Chapter 47, 2003 General Session

9-7-505. Rules -- Use of library.

(1) The board shall make library rules in a manner consistent with county ordinances, policies, and procedures for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the area taxed for the support of the library, subject to the rules made as prescribed by county ordinance.

Amended by Chapter 47, 2003 General Session

9-7-506. Annual reports.

The library board of directors shall:

(1) make an annual report to the county executive and county legislative body on the condition and operation of the library, including a financial statement; and

(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.

Amended by Chapter 227, 1993 General Session

9-7-507. Librarian and other personnel.

(1) (a) The library board of directors shall recommend to the county executive for appointment a competent person to serve as librarian.

(b) The county executive shall, within 30 days of the recommendation, either make the appointment or request that the board submit another recommendation.

(c) The librarian shall be an employee of the county subject to the personnel policies, procedures, and compensation plans approved by the county executive and county legislative body.

(d) The librarian shall act as the executive officer for the library board.

(2) (a) All library personnel are employees of the county.

(b) The librarian or the librarian's designee shall hire library personnel in accordance with the county merit system, personnel policies and procedures, and compensation plans approved by

the county executive and county legislative body.

(3) As used in this section "librarian" means the county library director.
Amended by Chapter 47, 2003 General Session

9-7-508. Donations of money or property.

(1) A person desiring to make a donation of money, personal property, or real estate for the benefit of a library has the right to vest the title to the money, personal property, or real estate in the county, designated for the benefit and purposes of the library.

(2) The county shall hold donated personal property and real estate as prescribed by county ordinance according to the terms of the deed, gift, devise, or bequest of the property, and the county shall be the trustee of the property.

Amended by Chapter 47, 2003 General Session

9-7-509. Entities may cooperate, merge, or consolidate in providing library services.

Boards of directors of city libraries, boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate in providing library services or merge or consolidate under an interlocal agreement approved and implemented in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 47, 2003 General Session

9-7-510. Estimate of moneys.

(1) The library board of directors shall furnish to the county executive and county legislative body, in writing, and prior to the time required by law to levy county taxes, an estimate of the amount of moneys necessary to establish, equip, and maintain the library, and to provide library services during the next ensuing fiscal year and shall certify the amount.

(2) The county legislative body may, at the time and in the manner of levying other taxes, impose the levy, but the levy may not exceed in any one year .001 per dollar of taxable value of taxable property in the county.

Amended by Chapter 305, 1995 General Session

9-7-511. Library bonds -- Issuance of previously voted bonds.

(1) When an election has been held in any county to authorize bonds of the county for the purpose of acquiring, improving, and extending a public library for the county, including the acquisition of equipment, furnishings, and books, and it was specified in the proposition that the bonds are to be payable from ad valorem taxes to be levied on all taxable property in the county, and when the election has carried, but none of the bonds authorized have been issued, the bonds authorized to be issued at election may be issued and shall be payable from taxes to be levied without limitation as to rate or amount on all taxable property in the county, despite any provision of law to the contrary in effect at the time of the election.

(2) All county library bonds that have been authorized but not yet issued, all county library bond elections previously held and carried, and all proceedings in connection with them that were adopted for the authorization of the bonds are hereby validated, ratified, approved, and confirmed, and the bonds, when issued in accordance with the election and proceedings, shall be binding, legal, valid, and enforceable obligations of the county issuing them in accordance with their terms.

Renumbered and Amended by Chapter 241, 1992 General Session

(Public Library Employee Benefits)

10-3-1104. Library personnel -- Monthly wage deductions and matching sums -- Time of inclusion.

(1) The librarians, assistants and employees of any public library may, at the discretion of the board of directors of the library, be included within and participate in the pension, retirement, sickness, disability and death benefit system established under Section **10-3-1103**. In the event the librarian, assistants and employees of the municipality are included within and participate in the system, there shall be deducted from the monthly wage or salary of the librarian, assistants and employees and paid into the system, a percentage of their wage or salary equal to the percentage of the monthly wage or salary of other employees of the municipality which is paid into the system. Also there shall be paid monthly into the system from the funds of the library a further sum equal to the total amount deducted monthly from the wage or salary of the librarian, assistants and employees and paid into the retirement system.

(2) Where the election by the board of directors of any library for inclusion of its librarian, assistants and employees within the system of any municipality is subsequent to the establishment of the system, the inclusion may begin as of the date of the establishment of the system or as of the date of the election as shall be determined by the board of directors. If inclusion is as of the date of the establishment of the system, there shall be paid into the system in addition to the subsequent monthly wage deductions and matching sums, a sum equal to the aggregate of monthly payroll deductions and matching sums that would have accrued during the period beginning with the establishment of the system and ending with the election had the librarian, assistants and employees been included within the system from its establishment.

Enacted by Chapter 48, 1977 General Session

(Cities can establish libraries and bond for them)

10-8-72. Libraries and reading rooms -- Establishment and maintenance.

They may establish, maintain and regulate free public libraries and reading rooms, as provided by law, and may perpetuate such free libraries and reading rooms as may have been heretofore established in the city.

No Change Since 1953

11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities,

playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions; or

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision.

(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.

(3) A cost under Subsection (1) may include:

(a) the cost of equipment and furnishings for such improvements, facilities, or property;

(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;

(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;

(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and

(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.

Amended by Chapter 10, 2007 General Session

(State Publications: Capitol facilities plans)

[excerpt]

11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan -- Summary -- Exemptions.

(e) (i) If a local political subdivision prepares an independent capital facilities plan rather than including a capital facilities element in the general plan, the local political subdivision shall, before adopting the capital facilities plan:

(B) at least 14 days before the date of the public hearing:....

(II) place a copy of the plan and summary in each public library within the local political subdivision; ...

(6) Each local political subdivision that adopts an impact fee enactment under Section **11-36-202** on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit to each public library within the local political subdivision:

(a) a copy of the written analysis required by Subsection (5)(a); and

(b) a copy of the summary required by Subsection (5)(c)....

(Spyware control)

13-40-102. Definitions.

As used in this chapter:...

- (1) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including:...
- (b) a service or system providing access to the Internet, including a system operated by a library or education institution.

13-40-202. Permissive removal of potentially harmful software.

If a provider of computer software or an interactive computer services provides prior notice to a user with whom the provider has an established business relationship, that provider is not liable under the law of this state, or a political subdivision of this state, for identifying, removing, or disabling, preventing installation of a program on the user's computer that is used to, or that the provider reasonably or in good faith believes will likely be used to:

- (1) violate a provision of this chapter; or
- (2) to engage in surreptitious collection of information concerning the user's use of the computer without the consent of the owner of the computer, except that not notice is required for:
 - (a) preventing the installation of a program; or
 - (b) in the case of an enterprise network, removing, disabling, or preventing the installation of a program on the computer of an employee.

(Counties can establish libraries, bond for them, and improve them)

17-12-1. Authority and applicable procedure for issuance of bonds -- Application of proceeds -- Debt limit.

Except as otherwise provided under Section **17-50-303**, the county legislative body may contract a bonded indebtedness in the manner and subject to the conditions provided under Title 11, Chapter 14, Local Government Bonding Act. The revenue derived from the sale of bonds shall be applied only to the purpose or purposes specified in the order of the county legislative body. If there is any surplus, it shall be applied to the payment of the bonds. In no event may any county become so indebted to an amount, including existing indebtedness, exceeding 2% of the fair market value, as defined under Section **59-2-102**, of the taxable property in the county as computed from the last equalized assessment roll for county purposes prior to the incurring of the indebtedness.

17-12-3. Additional purposes for which bonds may be issued -- Joint ownership of facilities authorized.

In addition to other purposes for which bonds may be issued, bonds may be issued for the purpose of acquiring, improving or extending systems for the collection, retention and disposition of storm and flood waters, for the acquisition, improvement or extension of

public libraries, including equipment, furnishings and books therefor, acquiring or improving facilities for the collection, disposal or incineration of garbage and trash, acquiring, improving, extending, furnishing and equipping auditoriums, sports arenas, stadiums, convention centers and all properties and facilities ordinarily forming part of a so-called convention complex, or any part thereof and for acquiring, improving, extending, furnishing or equipping any improvement or facility which the county is authorized by law to own. Bonds may be issued for the county's share of any such facility to be owned jointly with any municipality or taxing district in the county and such joint ownership is expressly authorized.

(Local Districts)

17B-1-202. Local district may be created -- Services that may be provided -- Limitations.

(1) (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:

- (i) the operation of an airport;
- (ii) the operation of a cemetery;
- (iii) fire protection, paramedic, and emergency services;
- (iv) garbage collection and disposal;
- (v) health care, including health department or hospital service;
- (vi) the operation of a library;
- (vii) abatement or control of mosquitos and other insects;
- (viii) the operation of parks or recreation facilities or services;
- (ix) the operation of a sewage system;
- (x) street lighting;
- (xi) the construction and maintenance of curb, gutter, and sidewalk;
- (xii) transportation, including public transit and providing streets and roads;
- (xiii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;
- (xiv) extended police protection; or
- (xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line.

(b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(2) For purposes of this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A local district may not be created to provide and may not after its creation provide more than two of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than two services if, before April 30, 2007, the local district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide

and may not after its creation provide to an area the same service already being provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a

component operated by another political subdivision but within the same:

- (i) sewage system; or
- (ii) water system.

(5) (a) Except for a local district in the creation of which an election is not required under Subsection **17B-1-214**(3)(c), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a local district need not be contiguous.

Renumbered and Amended by Chapter 329, 2007 General Session

(Disabled Accessibility)

26-29-1. Buildings and facilities to which chapter applies -- Standards available to interested parties -- Building board staff to advise, review, and approve plans when possible.

(1) (a) The standards in this chapter apply to all buildings and facilities used by the public that are constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.

(b) All of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this chapter except buildings, facilities, or portions of them, not intended for public use, including:

- (i) caretaker dwellings;
- (ii) service buildings; and
- (iii) heating plants.

(2) This chapter applies to temporary or emergency construction as well as permanent buildings.

(3) (a) The standards established in this chapter apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this chapter where the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for persons with a physical disability.

(b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.

(c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards.

(4) (a) All individuals and organizations are encouraged to apply the standards prescribed in this chapter to all buildings used by the public, but that are financed from other than public funds.

(b) The State Building Board shall:

- (i) make the standards established by this chapter available to interested individuals and organizations; and
- (ii) upon request and to the extent possible, make available the services of the building board staff to advise, review, and approve plans and specifications in order to comply

with the standards of this chapter.

(Alcohol & Libraries)

32A-2-101. Commission's power to establish state stores -- Limitations.

(1) (a) The commission may establish state stores in numbers and at places, owned or leased by the department, it considers proper for the sale of liquor, by employees of the state, in accordance with this title and the rules made under this title.

(b) Employees of state stores are considered employees of the department and shall meet all qualification requirements for employment outlined in Section **32A-1-111**.

(2) (a) The total number of state stores may not at any time aggregate more than that number determined by dividing the population of the state by 48,000.

(b) For purposes of this Subsection (2), population shall be determined by:

(i) the most recent United States decennial or special census; or

(ii) any other population determination made by the United States or state governments.

(3) (a) A state store may not be established within 600 feet of any public or private school, church, public library, public playground, or park as measured by the method in Subsection (4).

(b) A state store may not be established within 200 feet of any public or private school, church, public library, public playground, or park measured in a straight line from the nearest entrance of the proposed state store to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the following exceptions applies:

(i) with respect to the establishment of a state store within a city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, the commission may authorize a variance that reduces the proximity requirements of Subsection (3)(a) or (b) if:

(A) alternative locations for establishing a state store in the community are limited;

(B) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4), the commission determines that establishing the state store would not be detrimental to the public health, peace, safety, and welfare of the community; or

(ii) with respect to the establishment of a state store in any location, the commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in relation to a church:

(A) if the local governing body of the church in question gives its written consent to the variance;

(B) following a public hearing in the county, and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4).

(4) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the state store by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(5) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of this Subsection (5), "educational facility" includes:

(i) a nursery school;

(ii) an infant day care center; and

(iii) a trade and technical school.
Amended by Chapter 292, 2003 General Session
Amended by Chapter 314, 2003 General Session

32A-3-101. Commission's power to establish package agencies -- Limitations.

[...]

(3) (a) As measured by the method in Subsection (4), the premises of a package agency may not be established within 600 feet of any public or private school, church, public library, public playground, or park.

(b) The premises of a package agency may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed package agency to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the following exemptions applies:

(i) with respect to the establishment of a package agency within a city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, the commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing a package agency in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4), the commission determines that establishing the package agency would not be detrimental to the public health, peace, safety, and welfare of the community;

(ii) with respect to the establishment of a package agency in any location, the commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in relation to a church:

(A) if the local governing body of the church in question gives its written consent to the variance;

(B) following a public hearing in the city, town, or county and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4); or

(iii) with respect to the premises of a package agency issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (3)(a) or (b) in considering whether to grant a package agency to the new owner of the premises if:

(A) the premises previously received a variance reducing the proximity requirements of Subsection (3)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

(4) With respect to any public or private school, church, public library, public

playground, or park, the 600 foot limitation is measured from the nearest entrance of the package agency by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(5) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of Subsection (5)(a), "educational facility" includes:

- (i) a nursery school;
- (ii) an infant day care center; and
- (iii) a trade and technical school.

(6) (a) The package agent, under the direction of the department, shall be responsible for implementing and enforcing this title and the rules adopted under this title to the extent they relate to the conduct of the agency and its sale of liquor.

(b) A package agent may not be, or construed to be, a state employee nor be otherwise entitled to any benefits of employment from the state.

(c) A package agent, when selling liquor from a package agency, is considered an agent of the state only to the extent specifically expressed in the package agency agreement.

(7) The commission may prescribe by policy, directive, or rule, consistent with this title, general operational requirements of all package agencies relating to:

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;
- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matters considered appropriate by the commission.

32A-4-101. Commission's power to grant licenses -- Limitations.

[...]

(4) (a) The premises of a restaurant liquor license may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (5).

(b) The premises of a restaurant liquor license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of

the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the following exemptions applies:

(i) with respect to the establishment of a restaurant liquor license in any location, the commission may authorize a variance to reduce the proximity requirements of Subsection

(4)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing a restaurant liquor license in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4), the commission determines that establishing the license would not be detrimental to the public health, peace, safety, and welfare of the community; or

(ii) with respect to the premises of a restaurant liquor license issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (4)(a) or (b) in considering whether to grant a restaurant liquor license to the new owner of the premises if:

(A) the premises previously received a variance reducing the proximity requirements of Subsection (4)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

(5) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(6) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of this Subsection (6), "educational facility" includes:

(i) a nursery school;

(ii) an infant day care center; and

(iii) a trade and technical school.

32A-10-201. Commission's power to grant licenses -- Limitations.

[...]

(3) (a) The premises of an on-premise beer retailer license may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (4).

(b) The premises of an on-premise beer retailer license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions of Subsections (3)(a) and (b) govern unless one of the following exemptions applies:

(i) with respect to the establishment of an on-premise beer retailer license that operates as a tavern within a city of the third, fourth, or fifth class, a town, or the unincorporated

area of a county, the commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing an on-premise beer retailer tavern license in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4), the commission determines that establishing the license would not be detrimental to the public health, peace, safety, and welfare of the community;

(ii) with respect to the establishment of an on-premise beer retailer license that operates as a tavern in any location, the commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in relation to a church:

(A) if the local governing body of the church in question gives its written consent to the variance;

(B) following a public hearing in the city, town, or county and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4);

(iii) with respect to the establishment of an on-premise beer retailer license that does not operate as a tavern in any location, the commission may authorize a variance that reduces the proximity requirements of Subsection (3)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing an on-premise beer retailer license that does not operate as a tavern in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4), the commission determines that establishing a license would not be detrimental to the public health, peace, safety, and welfare of the community;

(iv) with respect to any on-premise beer retailer license issued by the commission before July 1, 1991, to an establishment that undergoes a change in ownership after that date, the commission may waive or vary the proximity requirements of this Subsection (3) in considering whether to grant an on-premise retailer beer license to the new owner; and

(v) with respect to the premises of an on-premise beer retailer license issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (3)(a) or (b) in considering whether to grant an on-premise beer retailer license to the new owner of the premises if:

(A) the premises previously received a variance from the proximity requirements of Subsection (3)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

(4) With respect to any public or private school, church, public library, public

playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground or park.

(5) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of this Subsection (5), "educational facility" includes:

- (i) a nursery school;
- (ii) an infant day care center; and
- (iii) a trade and technical school.

32A-5-101. Commission's power to license private clubs -- Limitations.

[...]

(7) (a) The premises of a private club license may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (8).

(b) The premises of a private club license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the following exemptions applies:

(i) with respect to the establishment of a private club license within a city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, the commission may authorize a variance to reduce the proximity requirements of Subsection (7)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing a private club license in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4), the commission determines that establishing the license would not be detrimental to the public health, peace, safety, and welfare of the community;

(ii) with respect to the establishment of a private club license in any location, the commission may authorize a variance to reduce the proximity requirements of Subsection (7)(a) or (b) in relation to a church:

(A) if the local governing body of the church in question gives its written consent to the variance;

(B) following a public hearing in the city, town, or county and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections **32A-1-104**(3) and (4); or

(iii) with respect to the premises of a private club license issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (7)(a) or (b) in considering whether to grant a private club license to the new owner of the premises if:

(A) the premises previously received a variance reducing the proximity requirements of Subsection (7)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

(8) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, or park.

(9) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on whether to issue a private club license.

(b) For purposes of this Subsection (9), "educational facility" includes:

(i) a nursery school;

(ii) infant day care center; and

(iii) a trade and technical school.

(Legislative Interim Committees)

36-12-5. Duties of interim committees.

[...]

(3) Except as otherwise provided by law, reports and recommendations of the interim committees shall be completed and made public prior to any legislative session at which the reports and recommendations are submitted. A copy of the reports and recommendations shall be mailed to each member or member-elect of the Legislature, to each elective state officer, and to the state library.

(Legislative Research)

[*excerpts*]

36-12-12. Office of Legislative Research and General Counsel -- Established -- Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

[...]

(d) to maintain a legislative research library that provides analytical, statistical, legal, and descriptive data relative to current and potential governmental and legislative subjects;

(Use of State Library by Legislature)

36-12-18. Offices for Legislative Management Committee and professional legislative staff -- Hours -- Library facilities available -- Documents, reports, and information available.

The Legislative Management Committee and the professional legislative staff shall be provided with adequate quarters in the State Capitol Complex convenient to the members of the Legislature and other persons having official business with them. The offices shall be open during the time provided by law for other state offices, and when the Legislature is in session, at such hours as are convenient to the legislators. The facilities of the state library and other libraries maintained by the state shall be available for use by all legislative committees and subcommittees and the professional legislative staff. Each department, division, commission, agency, or other instrumentality of state government shall furnish to all the legislative committees and subcommittees and the professional legislative staff upon request any document, reports, or information available within the department.

Amended by Chapter 121, 2007 General Session

(Open Meetings)

52-4-201. Meetings open to the public -- Exceptions.

(1) A meeting is open to the public unless closed under Sections **52-4-204**, **52-4-205**, and **52-4-206**.

(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section **52-4-207**; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

52-4-203. Minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (8), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent;

(c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(d) a record, by individual member, of each vote taken by the public body;

(e) the name of each person who is not a member of the public body, and upon recognition by the presiding member of the public body, provided testimony or comments to the public body;

(f) the substance, in brief, of the testimony or comments provided by the public under

Subsection (2)(e); and

(g) any other information that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) The minutes and recordings of an open meeting are public records and shall be available within a reasonable time after the meeting.

(b) An open meeting record kept only by a recording must be converted to written minutes within a reasonable time upon request.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) Minutes or recordings of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Written minutes and recordings of open meetings are public records under Title 63, Chapter 2, Government Records Access and Management Act, but written minutes shall be the official record of action taken at the meeting.

(8) Either written minutes or a recording shall be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; and

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 35, 2007 General Session

Amended by Chapter 329, 2007 General Session

Amended by Chapter 204, 2007 General Session

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held:

(a) if a quorum is present; and

(b) if two-thirds of the members of the public body present at an open meeting for which notice is given under Section **52-4-202** vote to approve closing the meeting.

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section **52-4-205**.

(3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Nothing in this chapter shall be construed to require any meeting to be closed to the public.

52-4-205. Purposes of closed meetings.

(1) A closed meeting described under Section **52-4-204** may only be held for:

(a) discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct; and

(h) discussion by a county legislative body of commercial information as defined in Section **59-1-404**.

(2) A public body may not interview a person applying to fill an elected position in a closed meeting.

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection **52-4-205**(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent; and

(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) Both a recording and written minutes of closed meetings are protected records under Title 63, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section **52-4-304**.

(6) If a public body closes a meeting exclusively for the purposes described under

Subsection **52-4-205(1)(a)** or Subsection **52-4-205(1)(f)**:

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection **52-4-205(1)(a)** or Subsection **52-4-205(1)(f)**; and

(b) the provisions of Subsection (1) of this section do not apply.

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) A public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section **52-4-202**; and

(ii) post written notice at the anchor location;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections **52-4-201** and **52-4-202**.

Amended by Chapter 45, 2007 General Session

(School Library Standards)

53A-1-402. Board to establish minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the

public schools that are consistent with this title, including rules and minimum standards governing the following:

- (a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;
- (ii) required school administrative and supervisory services; and
- (iii) the evaluation of instructional personnel;
- (b) (i) access to programs;
- (ii) attendance;
- (iii) competency levels;
- (iv) graduation requirements; and
- (v) discipline and control;
- (c) (i) school accreditation;
- (ii) the academic year;
- (iii) alternative and pilot programs;
- (iv) curriculum and instruction requirements;
- (v) school libraries; and
- (vi) services to:
 - (A) persons with a disability as defined by and covered under:
 - (I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;
 - (II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and
 - (III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and
 - (B) other special groups;
- (d) (i) state reimbursed bus routes;
- (ii) bus safety and operational requirements; and
- (iii) other transportation needs; and
- (e) (i) school productivity and cost effectiveness measures;
- (ii) federal programs;
- (iii) school budget formats; and
- (iv) financial, statistical, and student accounting requirements.
- (2) The board shall determine if:
 - (a) the minimum standards have been met; and
 - (b) required reports are properly submitted.
- (3) The board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.
- (4) (a) The Utah College of Applied Technology shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.
- (b) A school district may grant a high school diploma to a student participating in courses described under Subsection (4)(a) that are provided by the Utah College of Applied Technology.

(Controlled Substances)

58-37-8. Prohibited acts -- Penalties.

- (1) Prohibited acts A -- Penalties:
 - (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

- (i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;
- (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;
- (iii) possess a controlled or counterfeit substance with intent to distribute; or
- (iv) engage in a continuing criminal enterprise where:
 - (A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and
 - (B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.
- (b) Any person convicted of violating Subsection (1)(a) with respect to:
 - (i) a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and upon a second or subsequent conviction is guilty of a first degree felony;
 - (ii) a substance classified in Schedule III or IV, or marijuana, is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or
 - (iii) a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.
- (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section **76-10-501** was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.
- (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.
- (2) Prohibited acts B -- Penalties:
 - (a) It is unlawful:
 - (i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of his professional practice, or as otherwise authorized by this chapter;
 - (ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or
 - (iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.
 - (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:
 - (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
 - (ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree felony; or
 - (iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.
 - (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than

provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i), (ii), or (iii), including less than one ounce of marijuana, is guilty of a class B misdemeanor. Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section **64-13-1** or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (2)(a)(iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section **76-5-207**:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in his body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section **76-5-207** in a negligent manner, causing serious bodily injury as defined in Section **76-1-601** or the death of another.

(h) A person who violates Subsection (2)(g) by having in his body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection **58-37-4(2)(a)(iii)(S)** or (AA) is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose his receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions;

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section **76-10-501**;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

(x) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section **76-8-311.3**.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this subsection would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(xi):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(xi).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act

occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(7) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(8) This section does not prohibit a veterinarian, in good faith and in the course of his professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under his direction and supervision.

(9) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of his employment.

(10) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection **58-37-2(1)(v)**, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection **58-37-2(1)(w)**.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection **58-37-4(2)(a)(iii)(V)**, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (10) as soon as practicable, but not later than ten days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (10) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(11) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Amended by Chapter 374, 2007 General Session

(Maximum Levy Limitation Exceptions)

59-2-911. Exceptions to maximum levy limitation.

(1) The maximum levies set forth in Section **59-2-908** do not apply to and do not include:

[...]

(d) levies made for county library services;

(Tax Exempt Status of Libraries)

59-2-1101. Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.

- (1) For purposes of this section:
 - (a) "exclusive use exemption" means a property tax exemption under Subsection (3)(d), for property owned by a nonprofit entity that is used exclusively for religious, charitable, or educational purposes;
 - (b) "government exemption" means a property tax exemption provided under Subsection (3)(a), (b), or (c); and
 - (c) "tax relief" means an exemption, deferral, or abatement that is authorized by this part.
- (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.
 - (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:
 - (i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a), (b), or (c); or
 - (ii) pursuant to Subsection (3)(d):
 - (A) the claimant is a nonprofit entity; and
 - (B) the property is used exclusively for religious, charitable, or educational purposes.
 - (c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's exemption in accordance with Sections **59-2-1104** and **59-2-1105** regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:
 - (i) the unmarried surviving spouse of:
 - (A) a deceased disabled veteran as defined in Section **59-2-1104**; or
 - (B) a veteran who was killed in action or died in the line of duty as defined in Section **59-2-1104**; or
 - (ii) a minor orphan of:
 - (A) a deceased disabled veteran as defined in Section **59-2-1104**; or
 - (B) a veteran who was killed in action or died in the line of duty as defined in Section **59-2-1104**.
 - (3) The following property is exempt from taxation:
 - (a) property exempt under the laws of the United States;
 - (b) property of:
 - (i) the state;
 - (ii) school districts; and
 - (iii) public libraries;
 - (c) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
 - (i) counties;
 - (ii) cities;
 - (iii) towns;
 - (iv) local districts;
 - (v) special service districts; and
 - (vi) all other political subdivisions of the state;
 - (d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;
 - (e) places of burial not held or used for private or corporate benefit;
 - (f) farm equipment and machinery;
 - (g) intangible property; and
 - (h) the ownership interest of an out-of-state public agency, as defined in Section **11-13-103**:
 - (i) if that ownership interest is in property providing additional project capacity, as defined in Section **11-13-103**; and
 - (ii) on which a fee in lieu of ad valorem property tax is payable under Section **11-13-302**.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:
(i) beginning on the day that the new owner acquired the property; and
(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):
(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Amended by Chapter 329, 2007 General Session

(Private Records [GRAMA])

63-2-202. Access to private, controlled, and protected documents.

(1) Upon request, a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or
[...]

(e) any person to whom the record must be provided pursuant to:

(i) court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14.

63-2-206. Sharing records.

(1) A governmental entity may provide a record that is private, controlled, or protected to another governmental entity, a government-managed corporation, a political subdivision, the federal government, or another state if the requesting entity:

(a) serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;

(b) enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;

(c) is authorized by state statute to conduct an audit and the record is needed for that purpose; or

(d) is one that collects information for presentence, probationary, or parole purposes.

(2) (a) A governmental entity may provide a private, controlled, or protected record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:

(i) that the record or record series is necessary to the performance of the governmental entity's duties and functions;

(ii) that the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and

(iii) that the use of the record or record series produces a public benefit that outweighs the individual privacy right that protects the record or record series.

(b) A governmental entity may provide a private, controlled, or protected record or record series to a contractor or a private provider according to the requirements of Subsection (6)(b).

(3) (a) A governmental entity shall provide a private, controlled, or protected record to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:

(i) is entitled by law to inspect the record;

(ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or

(iii) is an entity described in Subsection (1)(a), (b), (c), or (d).

(b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection **63-2-304**(4).

(4) Before disclosing a record or record series under this section to another governmental entity, another state, the United States, a foreign government, or to a contractor or private provider, the originating governmental entity shall:

(a) inform the recipient of the record's classification and the accompanying restrictions on access; and

(b) if the recipient is not a governmental entity to which this chapter applies, obtain the recipient's written agreement which may be by mechanical or electronic transmission that it will abide by those restrictions on access unless a statute, federal regulation, or interstate agreement otherwise governs the sharing of the record or record series.

(5) A governmental entity may disclose a record to another state, the United States, or a foreign government for the reasons listed in Subsections (1) and (2) without complying with the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.

(6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this section is subject to the same restrictions on disclosure of the record as the originating entity.

(b) A contractor or a private provider may receive information under this section only if:

(i) the contractor or private provider's use of the record or record series produces a public benefit that outweighs the individual privacy right that protects the record or record series;

(ii) the record or record series it requests:

(A) is necessary for the performance of a contract with a governmental entity;

(B) will only be used for the performance of the contract with the governmental entity;

(C) will not be disclosed to any other person; and
(D) will not be used for advertising or solicitation purposes; and
(iii) the contractor or private provider gives written assurance to the governmental entity that is providing the record or record series that it will adhere to the restrictions of this Subsection (6)(b).

(c) The classification of a record already held by a governmental entity and the applicable restrictions on disclosure of that record are not affected by the governmental entity's receipt under this section of a record with a different classification that contains information that is also included in the previously held record.

(7) Notwithstanding any other provision of this section, if a more specific court rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing information, that rule, order, statute, or federal regulation controls.

(8) The following records may not be shared under this section:

(a) records held by the Division of Oil, Gas and Mining that pertain to any person and that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas and Mining; and

(b) records of publicly funded libraries as described in Subsection **63-2-302(1)(c)**.

(9) Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

63-2-302. Private records.

(1) The following records are private:

[...]

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(Official State Language)

63-13-1.5. Official state language.

(1) English is declared to be the official language of Utah.

(2) As the official language of this State, the English language is the sole language of the government, except as otherwise provided in this section.

(3) Except as provided in Subsection (4), all official documents, transactions, proceedings, meetings, or publications issued, conducted, or regulated by, on behalf of, or representing the state and its political subdivisions shall be in English.

(4) Languages other than English may be used when required:

[...]

(f) by libraries to:

(i) collect and promote foreign language materials; and

(ii) provide foreign language services and activities.

(6) Unless exempted by Subsection (4), all state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall be returned to the General Fund.

(a) Each state agency that has state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall:

- (i) notify the Division of Finance that those monies exist and the amount of those monies; and
- (ii) return those monies to the Division of Finance.
- (b) The Division of Finance shall account for those monies and inform the Legislature of the existence and amount of those monies at the beginning of the Legislature's annual general session.

(Governmental Immunity)

63-30d-102. Definitions.

As used in this chapter:

- (1) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.
- (2) (a) "Employee" includes:
 - (i) a governmental entity's officers, employees, servants, trustees, or commissioners;
 - (ii) members of a governing body;
 - (iii) members of a government entity board;
 - (iv) members of a government entity commission;
 - (v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section **67-5b-104**;
 - (vi) student teachers holding a letter of authorization in accordance with Sections **53A-6-103** and **53A-6-104**;
 - (vii) educational aides;
 - (viii) students engaged in providing services to members of the public in the course of an approved medical, nursing, or other professional health care clinical training program;
 - (ix) volunteers as defined by Subsection **67-20-2(3)**; and
 - (x) tutors.
- (b) "Employee" includes all of the positions identified in Subsection (2)(a), whether or not the individual holding that position receives compensation.
- (c) "Employee" does not include an independent contractor.
- (3) "Governmental entity" means the state and its political subdivisions as both are defined in this section.
- (4) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.
- (b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.
- (c) "Governmental function" includes a governmental entity's failure to act.
- (5) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person or estate, that would be actionable if inflicted by a private person or his agent.
- (6) "Personal injury" means an injury of any kind other than property damage.
- (7) "Political subdivision" means any county, city, town, school district, community development and renewal agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.
- (8) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.
- (9) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(10) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that his conduct will probably result in injury.

Amended by Chapter 329, 2007 General Session

63-30d-201. Immunity of governmental entities from suit.

(1) Except as may be otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section **63-30d-301**, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section **26-23b-102**, or a declaration by the President of the United States or other federal official requesting public health related activities.

(State Capitol Preservation Board)

63C-9-301. Board powers -- Subcommittees.

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of Planning and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

- (iv) Division of State History;
- (v) Office of Museum Services; and
- (vi) Arts Council;
- (h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:
 - (i) Division of Facilities Construction and Management;
 - (ii) State Library Division;
 - (iii) Division of Archives and Records Service;
 - (iv) Division of State History;
 - (v) Office of Museum Services; and
 - (vi) Arts Council;
- (i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;
- (j) comply with federal and state laws related to program and facility accessibility; and
- (k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.
- (2) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section **36-5-1**, is reserved to the Legislature.
- (3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
- (b) A person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.
- (c) The board may take any other legal action allowed by law.
- (d) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under this Subsection (3) in addition to any criminal prosecution.
- (e) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.
- (f) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.
- (4) The board is exempt from the requirements of Title 63, Chapter 56, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.
- (5) (a) The board may:
 - (i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;
 - (ii) establish fees for the use of capitol hill facilities and capitol hill grounds;
 - (iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;
 - (iv) contract with another state agency to provide services;
 - (v) delegate by specific motion of the board any authority granted to it by this section to the executive director;
 - (vi) in conjunction with Salt Lake City, expend monies to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;
 - (vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and
 - (viii) when necessary, consult with the:
 - (A) Division of Facilities Construction and Management;
 - (B) State Library Division;

- (C) Division of Archives and Records Service;
- (D) Division of State History;
- (E) Office of Museum Services; and
- (F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (5)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of Legislative Fiscal Analyst; and

(ii) the director of the Governor's Office of Planning and Budget, or the director's designee, who shall be from the Governor's Office of Planning and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

(6) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol Building unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection (6)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

Amended by Chapter 322, 2007 General Session

63C-9-601. Responsibility for items.

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, State Library Division, the Division of Archives and Records Service, the Division of State History, the Office of Museum Services, the Utah Arts

Council, the Division of Arts and Museums, the Alice Art Collection Committee, or any other state agency.

(Code of Ethics)- excerpts

67-16-3. Definitions.

(12) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by the state or any of its political subdivisions. "Public employee" does not include legislators or legislative employees.

(13) "Public officer" means all elected or appointed officers of the state or any of its political subdivisions who occupy policymaking posts. "Public officer" does not include legislators or legislative employees.

67-16-4. Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment which would impair independence of judgment or ethical performance -- Exceptions.

(1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator, under circumstances not amounting to a violation of Section **63-56-1001** or **76-8-105**, to:

(a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;

(b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;

(c) use or attempt to use his official position to:

(i) further substantially the officer's or employee's personal economic interest; or

(ii) secure special privileges or exemptions for himself or others;

(d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or

(e) accept other employment that he might expect would interfere with the ethical performance of his public duties.

(2) (a) Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.

(b) The conduct referred to in Subsection (2)(a) is subject to Section **53A-1-402.5**.

(3) A county legislative body member who does not participate in the process of selecting a mental health or substance abuse service provider does not commit an offense under Subsection (1)(a) or (b) by:

(a) serving also as a member of the governing board of the provider of mental health or substance abuse services under contract with the county; or

(b) discharging, in good faith, the duties and responsibilities of each position.

67-16-5. Accepting gift, compensation, or loan -- When prohibited.

(1) As used in this section, "economic benefit tantamount to a gift" includes:

(a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and
(b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

(2) It is an offense for a public officer or public employee, under circumstances not amounting to a violation of Section **63-56-1001** or **76-8-105**, to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

(a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;

(b) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken; or

(c) if he recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section **67-16-6**.

(3) Subsection (2) does not apply to:

(a) an occasional nonpecuniary gift, having a value of not in excess of \$50;

(b) an award publicly presented in recognition of public services;

(c) any bona fide loan made in the ordinary course of business; or

(d) a political campaign contribution.

Amended by Chapter 233, 2007 General Session

67-16-5.3. Requiring donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) It is an offense for a public officer, public employee, or legislator, under circumstances not amounting to a violation of Section **63-56-1001** or **76-8-105**, to demand from any person as a condition of granting any application or request for a permit, approval, or other authorization, that the person donate personal property, money, or services to any agency.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) made voluntarily by the applicant; or

(iv) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.

(b) If a person donates property, funds, or services to an agency, the agency shall, as part of the permit or other written authorization:

(i) identify that a donation has been made;

(ii) describe the donation;

(iii) certify, in writing, that the donation was voluntary; and

(iv) place that information in its files.

67-16-5.6. Offering donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) It is an offense for any person, under circumstances not amounting to a violation of Section **76-8-103**, to donate or offer to donate personal property, money, or services to

any agency on the condition that the agency or any other agency approve any application or request for a permit, approval, or other authorization.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) otherwise expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action; or

(iv) made without condition.

(b) The person making the donation of property, funds, or services shall include with the donation a signed written statement certifying that the donation is made without condition.

(c) The agency receiving the donation shall place the signed written statement in its files.

67-16-9. Conflict of interests prohibited.

No public officer or public employee shall have personal investments in any business entity which will create a substantial conflict between his private interests and his public duties.

(Theft from Libraries)

76-6-605. Photographs of items allegedly taken or converted -- Admissibility -- Procedure.

(1) As used in this section "items" means:

(a) goods or merchandise as defined in Section **76-6-601**; and

(b) library materials, as defined in Title 76, Chapter 6, Part 8.

(2) In any prosecution for a violation of Section **76-6-602** or Title 76, Chapter 6, Part 8, Library Theft, photographs of the items alleged to have been taken or converted are competent evidence of the items and are admissible in any proceeding, hearing, or trial as if the items themselves were introduced as evidence.

(3) The photographs shall bear a written description of the items alleged to have been taken or converted, the name of the owner, or the store, establishment, or library, as appropriate, where the alleged offense occurred, the name of the accused, the name of the arresting peace officer, the date of the photograph, and the name of the photographer.

(4) The writing shall be made under oath by the arresting peace officer, and the photographs identified by the signature of the photographer. Upon the filing of the photograph and writing with the authority or court holding the items as evidence, they shall be returned to their owner, or returned to the proprietor or manager of the store or establishment, or to an employee of the library, as is appropriate.

76-6-801. Acts constituting library theft.

A person is guilty of the crime of library theft when he willfully, for the purpose of converting to personal use, and depriving the owner, conceals on his person or among his belongings library materials while on the premises of the library or willfully and without authority removes library

materials from the library building with the intention of converting them to his own use.
Amended by Chapter 245, 1987 General Session

76-6-802. Presumption of intent.

A person who willfully conceals library materials on his person or among his belongings while on the premises of the library or in its immediate vicinity is prima facie presumed to have concealed library materials with the intention of converting them to his own use. If library materials are found concealed upon his person or among his belongings, or electronic security devices are activated by the person's presence, it is prima facie evidence of willful concealment.

76-6-803. Mutilation or damaging of library material as library theft.

A person is guilty of the crime of library theft when he intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or otherwise damages library materials.
Amended by Chapter 245, 1987 General Session

76-6-803.30. Failure to return library material as library theft -- Notice -- Failure to pay replacement value -- Written notice.

(1) A person is guilty of library theft when, having possession or having been in possession of library materials, he:

(a) fails to return the materials within 30 days after receiving written notice demanding return of the materials; or

(b) if the materials are lost or destroyed, fails to pay the replacement value of the materials within 30 days after being notified.

(2) Written notice is considered received upon the sworn affidavit of the person delivering the notice with a statement as to the date, place, and manner of delivery, or upon proof that the notice was mailed postage prepaid, via the United States Postal Service, to the current address listed for the person in the library records.

76-6-803.60. Detention of theft suspect by library employee -- Purposes.

(1) Any employee of the library who has probable cause to believe that a person has committed library theft may detain the person, on or off the premises of a library, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether the person has in his possession concealed library materials;

(b) to request identification;

(c) to verify identification;

(d) to make a reasonable request of the person to place or keep in full view any library materials the individual may have removed, or which the employee has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer; or

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of the minor as soon as possible of this detention and to surrender custody of the minor to this person.

(2) An employee may make a detention under this section off the library premises only if the detention is pursuant to an immediate pursuit of the person.

Enacted by Chapter 245, 1987 General Session

76-6-803.90. Liability -- Defense -- Probable cause -- Reasonableness.

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by an employee of the library, it is a defense to the action that the employee of the library detaining the person had probable cause to believe that the person had committed library theft and that the employee acted reasonably under all circumstances.

76-6-804. "Book or other library materials" defined.

The terms "book or other library materials" as used in this act include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of the following:

- (1) any public library;
- (2) any library of an educational or historical society;
- (3) any museum; or
- (4) any repository of public records.

Enacted by Chapter 168, 1981 General Session

(Blinder Racks)

76-10-1201. Definitions.

For the purpose of this part:

(1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the lower 2/3 of the material is concealed from view.

(2) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.

(3) "Distribute" means to transfer possession of materials whether with or without consideration.

(4) "Exhibit" means to show.

(5) (a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

(i) taken as a whole, appeals to the prurient interest in sex with minors;

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) taken as a whole, does not have serious value for minors.

(b) Serious value includes only serious literary, artistic, political or scientific value for minors.

(6) "Knowingly" means an awareness, whether actual or constructive, of the character of material or of a performance. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is criminally negligent as described in Section **76-2-103**.

(7) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.

(8) "Minor" means any person less than 18 years of age.

(9) "Negligently" means simple negligence, the failure to exercise that degree of care that a reasonable and prudent person would exercise under like or similar circumstances.

- (10) "Nudity" means:
- (a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering;
 - (b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or
 - (c) the depiction of covered male genitals in a discernibly turgid state.
- (11) "Performance" means any physical human bodily activity, whether engaged in alone or with other persons, including singing, speaking, dancing, acting, simulating, or pantomiming.
- (12) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.
- (13) "Sado-masochistic abuse" means:
- (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or
 - (b) the condition of being fettered, bound, or otherwise physically restrained on the part of a person clothed as described in Subsection (13)(a).
- (14) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.
- (15) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Amended by Chapter 123, 2007 General Session

Amended by Chapter 337, 2007 General Session

76-10-1208. Affirmative defenses.

- (1) It is an affirmative defense to prosecution under this part that the distribution of pornographic material is restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material.
- (2) It is not a defense to prosecution under this part that the actor is a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to violate this part incident to the person's employment.
- (3) It is an affirmative defense to prosecution under Section **76-10-1206**, **76-10-1227**, or **76-10-1228** for displaying or exhibiting an outer portion of material, that the material is:
- (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;
 - (b) placed behind a blinder rack; or
 - (c) displayed in an area from which a minor is physically excluded if the material cannot be viewed by the minor from an area in which a minor is allowed.

Amended by Chapter 123, 2007 General Session

76-10-1210. Relation to other laws.

- (1) (a) It is not the intent of this part to prescribe or limit the regulation of pornographic materials or materials harmful to minors, and counties, cities, and other political subdivisions are specifically given the right to further regulate the materials.
- (b) Without limitation, a political subdivision may further regulate materials by ordinances relating to:
- (i) zoning;
 - (ii) licensing;
 - (iii) public nuisances;
 - (iv) a specific type of business such as adult bookstores or drive-in movies; or
 - (v) use of blinder racks.

(2) It is not the intent of this part to preclude the application of other laws of this state to pornographic materials or materials harmful to minors. Specifically, without limitation, this part is not in derogation of Sections **76-10-803** and **76-10-806**.

(3) The commission of a crime under this part shall be considered to offend public decency under Section **76-10-803**. It is the intent of this part to give the broadest meaning permissible under the federal and state constitutions to the words "offends public decency" in Section **76-10-803**.

Amended by Chapter 123, 2007 General Session

(Indecent Public Displays)

76-10-1227. Indecent public displays -- Definitions.

(1) For purposes of this section and Section **76-10-1228**:

(a) "Description or depiction of illicit sex or sexual immorality" means:

- (i) human genitals in a state of sexual stimulation or arousal;
- (ii) acts of human masturbation, sexual intercourse, or sodomy;
- (iii) fondling or other erotic touching of human genitals or pubic region; or
- (iv) fondling or other erotic touching of the human buttock or female breast.

(b) "Nude or partially denuded figure" means:

(i) less than completely and opaquely covering human:

(A) genitals;

(B) pubic regions;

(C) buttock; and

(D) female breast below a point immediately above the top of the areola; and

(ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) (a) Subject to Subsection (2)(c), this section and Section **76-10-1228** do not apply to any material which, when taken as a whole, has serious value for minors.

(b) As used in Subsection (2)(a), "serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.

(c) A description or depiction of illicit sex or sexual immorality as defined in Subsection (1)(a)(i), (ii), or (iii) has no serious value for minors.

Amended by Chapter 123, 2007 General Session

76-10-1228. Indecent public displays -- Prohibitions -- Penalty.

(1) Subject to the affirmative defense in Subsection **76-10-1208(3)**, a person is guilty of a class A misdemeanor who willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to a minor or has in the person's possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to a minor any material with:

(i) a description or depiction of illicit sex or sexual immorality; or

(ii) a nude or partially denuded figure; or

(b) publicly displays at newsstands or any other establishment frequented by minors, or where the minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket book, pamphlet, or magazine the cover or content of which:

(i) exploits, is devoted to, or is principally made up of one or more descriptions or depictions of illicit sex or sexual immorality; or

(ii) consists of one or more pictures of nude or partially denuded figures.

(2) (a) A violation of this section is punishable by:

(i) a minimum mandatory fine of not less than \$500; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30

days.

(b) This section supersedes Section **77-18-1**.

Amended by Chapter 123, 2007 General Session

(Pornographic Films)

76-10-1226. Exemptions from application of film distribution act.

This part does not apply to any film:

(1) distributed to or exhibited by any accredited university, college, school, library, or other educational institution, church, or museum, if there is scientific, religious, or educational justification for the exhibition of the film; or

(2) exhibited by the Department of Corrections or exhibited as part of any treatment program operated by or under contract with the department if the exhibition of the film is solely for the assessment or treatment of an offender as defined under Section **64-13-1**.

(Detaining Thieves)

77-7-12. Detaining persons suspected of shoplifting or library theft -- Persons authorized.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who has reasonable grounds to believe that goods held or displayed for sale by the merchant have been taken by a person with intent to steal may, for the purpose of investigating the unlawful act and attempting to effect a recovery of the goods, detain the person in a reasonable manner for a reasonable length of time.

(2) A peace officer or employee of a library may detain a person for the purposes and under the limits of Subsection (1) if there are reasonable grounds to believe the person violated Title 76, Chapter 6, Part 8, Library Theft.

77-7-13. Arrest without warrant by peace officer -- Reasonable grounds, what constitutes -- Exemption from civil or criminal liability.

(1) A peace officer may arrest, without warrant, any person the officer has reasonable ground to believe has committed a theft under Title 76, Chapter 6, Part 8, Library Theft, or of goods held or displayed for sale.

(2) A charge of theft made to a peace officer under Part 8, Library Theft, by an employee of a library, or by a merchant, merchant's employee, servant, or agent constitutes a reasonable ground for arrest, and the peace officer is relieved from any civil or criminal liability.

77-7-14. Person causing detention or arrest of person suspected of shoplifting or library theft -- Civil and criminal immunity.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the detention of a person as provided in Section **77-7-12**, or who causes the arrest of a person for theft of goods held or displayed for sale, is not criminally or civilly liable where he has reasonable and probable cause to believe the person detained or arrested committed a theft of goods held or displayed for sale.

(2) A peace officer or employee of a library who causes a detention or arrest of a

person under Title 76, Chapter 6, Part 8, Library Theft, is not criminally or civilly liable where he has reasonable and probable cause to believe that the person committed a theft of library materials.

(County Law Libraries)

78-3-13.4. Transfer of court operating responsibilities -- Facilities -- Staff -- Budget.

(1) A county's determination to transfer responsibility for operation of the district court to the state is irrevocable.

(2) (a) Court space suitable for the conduct of judicial business as specified by the Judicial Council shall be provided by the state from appropriations made by the Legislature for these purposes.

(b) The state may, in order to carry out its obligation to provide these facilities, lease space from a county, or reimburse a county for the number of square feet used by the district. Any lease and reimbursement shall be determined in accordance with the standards of the State Building Board applicable to state agencies generally. A county or municipality terminating a lease with the court shall provide written notice to the Judicial Council at least one year prior to the effective date of the termination.

(c) District courts shall be located in municipalities that are sites for the district court or circuit court as of January 1, 1994. Removal of the district court from the municipality shall require prior legislative approval by joint resolution.

(3) The state shall provide legal reference materials for all district judges' chambers and courtrooms, as required by Judicial Council rule. Maintenance of county law libraries shall be in consultation with the court executive of the district court.

(4) (a) At the request of the Judicial Council, the county or municipality shall provide staff for the district court in county seats or municipalities under contract with the administrative office of the courts.

(b) Payment for necessary expenses shall be by a contract entered into annually between the state and the county or municipality, which shall specifically state the agreed costs of personnel, supplies, and services, as well as the method and terms of payment.

(c) Workload measures prepared by the state court administrator and projected costs for the next fiscal year shall be considered in the negotiation of contracts.

(d) Each May 1 preceding the general session of the Legislature, the county or municipality shall submit a budget request to the Judicial Council, the governor, and the legislative fiscal analyst for services to be rendered as part of the contract under Subsection (b) for the fiscal year immediately following the legislative session. The Judicial Council shall consider this information in developing its budget request. The legislative fiscal analyst shall provide the Legislature with the county's or municipality's original estimate of expenses. By June 15 preceding the state's fiscal year, the county and the state court administrator shall negotiate a contract to cover expenses in accordance with the appropriation approved by the Legislature. The contracts may not include payments for expenses of service of process, indigent defense costs, or other costs or expenses provided by law as an obligation of the county or municipality.

Amended by Chapter 198, 1996 General Session